

Appendix A

Public and Agency Correspondence

MAR 21 2003

ALB-155
ENV-1.10

Mr. Willie Lucero, District Manager
NM State Land Office
New Mexico Tech Campus Station
Physical Plant, Room 210
Socorro, NM 87801

Subject: Informational Meeting on the San Acacia Escondida Habitat Restoration Project

Dear Mr. Lucero:

As an individual or agency that may own land or have a land interest within the Bureau of Reclamation's (Reclamation) proposed San Acacia to Escondida Habitat Restoration Project (Project) area, you are invited to attend a Project informational meeting. The meeting will be held on **Tuesday, April 8, from 2:00-4:00 pm at Reclamation's Socorro Field Division Office located at 2401 State Road 1** (just north of the Socorro Airport). If you need additional directions, please contact our Socorro office at (505) 835-1202.

Reclamation will describe the purpose and need for the Project, discuss alternatives, and solicit issues and/or concerns about the Project.

If you are aware of any other person or entity (not on the mailing list below) that should be present at this meeting, or have any questions, please contact Ms. Nancy Umbreit at (505) 248-5331. Thank you in advance for your participation. We look forward to meeting with you.

Sincerely,

Kenneth G. Maxey

Kenneth G. Maxey
Area Manager

Identical Letter Sent To:

Mr. Terry Tadano
Sevilleta National Wildlife Refuge
P.O. Box 1248
Socorro, NM 87801

Continued on next page

Ms. Yasmeen Najmi
Middle Rio Grande Conservancy District
P.O. Box 581
1931 2nd Street NW
Albuquerque, NM 87103

Mr. Sterling Grogan
Middle Rio Grande Conservancy District
P.O. Box 581
1931 2nd Street NW
Albuquerque, NM 87103

Mr. Wes Anderson
Bureau of Land Management
198 Neel Avenue NW
Socorro, NM 87801-4648

Ms. Lois Bell
Bureau of Land Management
198 Neel Avenue NW
Socorro, NM 87801-4648

Mr. Dick Epstein and Ms. Carolyn Kernberger
P.O. Box 217
Socorro, NM 87801

Mr. Matt Mitchell
P.O. Box 338
San Antonio, NM 87832

Ms. Cecilia Rosacker-McCord
Rt. 31 Box 63
Lemitar, NM 87823

Nyleen Stowe
SSWCD
103 Neel Ave
Socorro, NM 87801

Mr. Charles Muncy
P.O. Box 1212
Socorro, NM 87801

bc: ALB-150, ALB-240, ALB-241, ALB-242

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IN REPLY REFER TO:

United States Department of the Interior

BUREAU OF RECLAMATION

Albuquerque Area Office
555 Broadway Blvd., NE Suite 100
Albuquerque, New Mexico 87102-2352

ALB-155
ENV-1.10

MAY 13 2004

Ms. Julie Hall
Chief, Environmental Resources Section
Albuquerque District, Corps of Engineers
4101 Jefferson Plaza NE
Albuquerque, NM 87109-3435

Subject: Informational Meetings Scheduled for the San Acacia River Miles 114 and 113
Priority Sites Project

Dear Ms. Hall:

The Bureau of Reclamation would like to invite you to attend a public informational meeting on the proposed river maintenance work below San Acacia Diversion Dam. The project work, as originally proposed and described at three earlier public meetings, has been considerably modified. We would like to update you on these proposed changes which would better benefit the river and address our river priority site concerns. Reclamation will describe the purpose and need for the project, discuss alternatives, and solicit issues and/or concerns about the project.

The two public presentations are scheduled as follows:

May 21 from 1:30 to 2:30 pm at Reclamation's Socorro Field Division Office located at **2401 State Road 1** (just north of the Socorro Airport). If you need additional directions, please contact our Socorro office at **505-835-1202**.

June 1 at 1:00 pm which will be a part of the Save Our Bosque (SOB) Task Force Meeting. The meeting will be held at the State Forestry Office (take Highway 60 west, go past the hospital, look on the right for the Ark of Socorro Vet Clinic - the office is directly behind the clinic). This presentation will not be as comprehensive as that given on May 21.

If you are aware of any other person or entity (not on the mailing list below) that should be present at this meeting, or have any questions, please contact Ms. Nancy Umbreit at 505-462-3599 or Mr. Robert Maxwell at 505-462-3597. Thank you in advance for your participation. We look forward to meeting with you.

Sincerely,

A. Jack Garner
Area Manager

A

Identical Letter Sent To:

Mr. Terry Tadano
Sevilleta National Wildlife Refuge
P.O. Box 1248
Socorro, NM 87801

Mr. Willie Lucero
District Manager, NM State Land Office
New Mexico Tech Campus Station
Physical Plant, Room 210
Socorro, NM 87801

Ms. Yasmeen Najmi
Middle Rio Grande Conservancy District
P.O. Box 581
Albuquerque, NM 87103

Mr. Sterling Grogan
Middle Rio Grande Conservancy District
P.O. Box 581
Albuquerque, NM 87103

Ms. Gina Dello Russo
P.O. Box 1246
Socorro, NM 87801

Ms. Lois Bell
Bureau of Land Management
198 Neel Avenue NW
Socorro, NM 87801-4648

Mr. Dick Epstein and Ms. Carolyn Kernberger
P.O. Box 217
Socorro, NM 87801

Mr. Matt Mitchell
P.O. Box 338
San Antonio, NM 87832

Ms. Cecilia Rosacker-McCord
Rt. 31 Box 63
Lemitar, NM 87823

Ms. Nyleen Stowe
SSWCD
103 Neel Ave
Socorro, NM 87801

Mr. Charles Muncy
P.O. Box 1212
Socorro, NM 87801

bc: ALB-150, -153, -240, - 242, S-10

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Questions about the project from Gordon Herkenhoff

What is date of photo-map?

Can you document the erosion in the two most threatened areas over the last 10 or 15 yrs.?

What is the cost of the project?

It appears on the ground that there are two places on the levy that are close to the river. These are each less than 500 feet long. Why can't you put large rip-rap in just those areas?

The river flow out of the San Acacia Diversion dam is nearly perpendicular to the railroad berm and it has not been breached in the last 70 years. Why can't you treat the threatened areas with similar erosion control?

Why not move the river to the East? The cost would be fractional?

With the exception of the two threatened areas, the majority of the rest of the levy is protected by jetty poles and jacks. Why do you focus only on this stretch when just upstream and just downstream there are similar areas close to the water?

From the top of the levy to the surface of the water looks to be 20 to 30 feet in the two areas. If there has been no noticeable erosion in the past 10 years, why would you invest millions of tax dollars in this project?

We can sometimes capture the water from rainstorms coming down the San Lorenzo arroyo in the settling basin and the put that "clean" water into the LFCC and use it for irrigation further downstream. Won't this water be unavailable in you scheme?

Remembering when the Rio Salado flooded into the LFCC as a result of poor maintainance in the flumed area, aren't you creating a greater chance of downstream flooding by moving the LFCC to the west?

What about the alluvial fan which could be created in the river in the more distant future? Could this be another Calabsias Arroyo type problem?

Won't there be a major loss of habitat? Currently the San Lorenzo water is spread out through the settling basin and is wets the area two or three times a year. When the San Lorenzo goes directly into the river that area will no longer be flooded. Isn't this contrary to habitat creation policies?

Wouldn't the levy rehabilitation project proposed by the COE remedy these and the other "threatened" areas of the levy? Isn't this a duplication of effort?



November 3, 2004

Ms. Susan MacMullin
Field Supervisor
U.S. Fish and Wildlife Service
New Mexico Ecological Services Field Office
2105 Osuna NE
Albuquerque, New Mexico 87113

Dear Ms. MacMullin:

The Bureau of Reclamation is proposing to relocate a portion of the Low Flow Conveyance Channel (LFCC) and adjacent levee along the Rio Grande. The project area is located in Socorro County downstream of San Acacia Diversion Dam at river miles 114 and 113. Enclosed is a summary description of the proposed action and a site location map showing the proposed alignment.

Reclamation has contracted with C Squared Environmental Consulting LLC, to prepare an environmental assessment for this project as required by the National Environmental Policy Act.

This letter will serve to initiate informal consultation with the Fish and Wildlife Service regarding any federally protected species under the Endangered Species Act associated with the proposed action. Please provide Reclamation (attention: Art Coykendall, Bureau of Reclamation, 555 Broadway NE, Suite 100, Albuquerque, New Mexico, 87102) and C Squared Environmental Consulting, LLC (see contact information printed at the bottom of this page) with any comments and concerns regarding the federally protected species that may potentially be affected by the project.

If you would like additional information about the proposed action, please feel free to contact me.

Sincerely,
C Squared Environmental Consulting, LLC

A handwritten signature in cursive script, appearing to read 'Devin Kennemore'.

Devin Kennemore
President

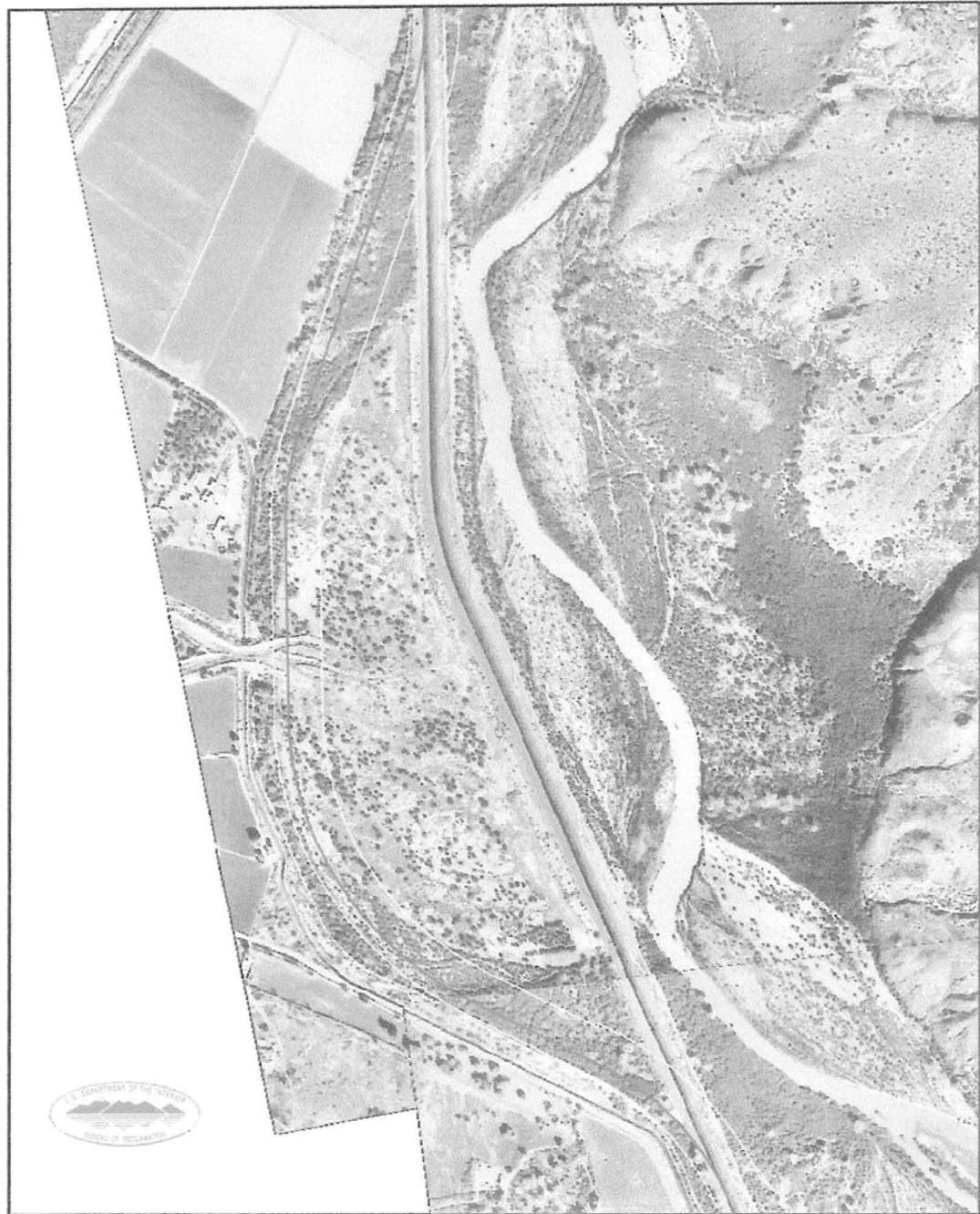
Attachments: (1)

San Acacia, NM, Levee and Low-Flow Conveyance Channel Project Description

The Bureau of Reclamation has authority for maintenance of the Rio Grande river-channel between Velarde, New Mexico and Caballo Reservoir under the *Flood Control Acts of 1948 and 1950*. Under this authority, Reclamation monitors locations where there is danger of river erosion causing damage to levees, roads, ditches, and other riverside facilities; these locations are referred to by Reclamation as "priority sites." Two priority sites have been identified within one mile of each other at river miles 114 and 113. Presently, the Rio Grande is eroding the bank on the west side of the river at these locations. Continued erosion will ultimately result in the undercutting of the levee and the low-flow conveyance channel (LFCC) located on that side of the river. Eventually, if no action is taken, the levee and LFCC will be washed out at these locations. Reclamation is proposing to address both of these sites with one project.

To address these priority sites in the reach between the San Acacia Diversion Dam and Escondida Bridge, Reclamation proposes to realign the existing levee and LFCC from Station 1962+31 to 1865+85, a total of 9,646 feet. A new levee and LFCC alignment will be constructed approximately 1,500 feet to the west of the existing levee and LFCC alignment as shown in Figure 1 below. The proposed new levee and LFCC alignment would be approximately 10,800 feet in length. Once the new alignment has been completed, the existing LFCC would be filled in with the material from the existing levee. Removal of the levee would allow the Rio Grande to naturally continue its westward meandering. This project would require no in-river activity.

River Miles 114 and 113 Priority Sites



Legend

— 2000 cfs LFCC Centerline
Levee Setback Borders

Prepared by: Tyler Smith
November 1, 2004

RECLAMATION
Managing Water in the West

1,000 500 0 1,000 Feet

Figure 1. Proposed new levee and LFCC alignment.



United States Department of the Interior

FISH AND WILDLIFE SERVICE

New Mexico Ecological Services Field Office
2105 Osuna NE
Albuquerque, New Mexico 87113
Phone: (505) 346-2525 Fax: (505) 346-2542

December 20, 2004

Cons. #2-22-05-I-0122

Devin Kennemore, President
C² Environmental Consulting, LLC
P.O. Box 231
Rowe, New Mexico 87562

Dear Mr. Kennemore:

Thank you for your November 3, 2004, letter requesting information on threatened or endangered species or important wildlife habitats that could be affected by the proposed relocation of a portion of the Low Flow Conveyance Channel (LFCC) and adjacent levee. The proposed action is to realign the existing levee and LFCC from Station 1962+31 to 1865+85. A new levee and LFCC alignment will be constructed approximately 1,500 feet to the west of the existing levee and LFCC alignment. The proposed new levee and LFCC alignment would be approximately 10,800 feet in length. The proposed project is located downstream of San Acacia Diversion Dam at river miles 114 and 113 in Socorro County, in New Mexico.

We have enclosed a current list of federally endangered, threatened, proposed, and candidate species, and species of concern that may be found in Socorro, New Mexico.¹ Under the Endangered Species Act, as amended (Act), it is the responsibility of the Federal action agency or its designated representative to determine if a proposed action "may affect" endangered, threatened, or proposed species, or designated critical habitat, and if so, to consult with us further. If your action area has suitable habitat for any of these species, we recommend that species-specific surveys be conducted during the flowering season for plants and at the appropriate time for wildlife to evaluate any possible project-related impacts. Please keep in mind that the scope of federally listed species compliance also includes any interrelated or interdependent project activities (*e.g.*, equipment staging areas, offsite borrow material areas, or utility relocations) and any indirect or cumulative effects.

Candidates and species of concern have no legal protection under the Act and are included in this document for planning purposes only. We monitor the status of these species. If significant declines are detected, these species could potentially be listed as endangered or threatened.

¹ Additional information about these species is available on the Internet at <http://nmrareplants.unm.edu>, <http://nmnhp.unm.edu/bisonm/bisonquery.php>, and <http://ifw2es.fws.gov/endangeredspecies>.

Therefore, actions that may contribute to their decline should be avoided. We recommend that candidates and species of concern be included in your surveys.

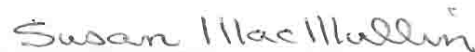
Under Executive Orders 11988 and 11990, Federal agencies are required to minimize the destruction, loss, or degradation of wetlands and floodplains, and preserve and enhance their natural and beneficial values. We recommend you contact the U.S. Army Corps of Engineers for permitting requirements under section 404 of the Clean Water Act if your proposed action could impact floodplains or wetlands. These habitats should be conserved through avoidance, or mitigated to ensure no net loss of wetlands function and value. For the construction of any new bridges, we would ask that you pay special attention to the effects of this type of structure in wetland areas.

The Migratory Bird Treaty Act (MBTA) prohibits the taking of migratory birds, nests, and eggs, except as permitted by the U.S. Fish and Wildlife Service. To minimize the likelihood of adverse impacts to all birds protected under the MBTA, we recommend construction activities occur outside the general migratory bird nesting season of March through August, or that areas proposed for construction during the nesting season be surveyed, and when occupied, avoided until nesting is complete.

We suggest you contact the New Mexico Department of Game and Fish, and the New Mexico Energy, Minerals, and Natural Resources Department, Forestry Division for information regarding fish, wildlife, and plants of State concern.

Thank you for your concern for endangered and threatened species and New Mexico's wildlife habitats. In future correspondence regarding this project, please refer to consultation # 2-22-05-I-0122. If you have any questions about the information in this letter, please contact Rawles Williams at the letterhead address or at (505) 761-4704.

Sincerely,



Susan MacMullin
Field Supervisor

Enclosure

cc: (w/o enc)

Director, New Mexico Department of Game and Fish, Santa Fe, New Mexico
Director, New Mexico Energy, Minerals, and Natural Resources Department, Forestry
Division, Santa Fe, New Mexico



BILL RICHARDSON
Governor

STATE OF NEW MEXICO
OFFICE OF CULTURAL AFFAIRS
HISTORIC PRESERVATION DIVISION ALBUQUERQUE AREA OFFICE

LA VILLA RIVERA BUILDING
228 EAST PALACE AVENUE
SANTA FE, NEW MEXICO 87501
(505) 827-6320

ORIGINAL

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4 February 2003

Lori Robertson
Manager – Environment and Lands Division
Bureau of Reclamation
Albuquerque Area Office
505 Marquette, N.W.
Suite 1313
Albuquerque, NM 87105-2162

Re: Documentation of the Bureau of Reclamation's Low Flow Conveyance Channel,
Middle Rio Grande, New Mexico: BOR/Albuquerque Office
IIPD Log # 66762

Dear Ms. Robertson:

Thank you for providing our office with a copy of Reclamation and Water Conveyance in the Middle Rio Grande Valley, 1888-1998, by Matt C. Bischoff, which was completed in support of a proposed modification of the Rio Grande floodway and Low Flow Conveyance Channel (LFCC) system and intended to serve as mitigation for any adverse effects that may result from modifications to the LFCC.

We concur with Mr. Bischoff's recommendation that the Low Flow Conveyance Channel is eligible for listing on the National Register of Historic Places under criterion A, at the local level of significance.

Thank you for providing our office with the opportunity to consult with you on this matter.

Best regards,

James Hare
Architectural Historian
505-827-7411

ALB-189
ENV-3.00

CERTIFIED MAIL

Governor Alvino Lucero
Pueblo of Isleta
P.O. Box 1270
Isleta Pueblo, NM 87022

Subject: River Mile 114 To 113 Priority Site "Levee Setback" Project.

Dear Governor Lucero:

In accordance with Sections 106 of the National Historic Preservation Act, the U.S. Bureau of Reclamation, Albuquerque Office, requests your views on a proposed undertaking to re-align a segment of the Low Flow Conveyance Channel (LFCC) approximately 10,000 feet, from River Mile 114 to River Mile 113 (See map and photos). This project has been proposed because the river is beginning to threaten the integrity of the east-side levee road of the LFCC. The proposed project would accommodate the natural tendency of the river and involve the construction of a new segment of the LFCC to the west of the existing one along with the construction of new levee roads. The abandoned section of the LFCC would be filled in and the associated levees would be graded.

The only known historic property within the project footprint is the LFCC. We request your review to see if you have any concerns regarding any sacred sites or traditional cultural properties that might be adversely affected by the proposed work.

If you have any questions, feel free to contact Reclamation archaeologist Jeffery Hanson, at 462-3607.

Sincerely,

Jack Garner
Area Manager

Enclosures: map and photos.

ORIGINAL



DEPARTMENT OF THE ARMY
ALBUQUERQUE DISTRICT, CORPS OF ENGINEERS
4101 JEFFERSON PLAZA NE
ALBUQUERQUE NM 87109-3435

January 25, 2005

Operations Division
Regulatory Branch

Mr. A. Jack Garner
Area Manager
Bureau of Reclamation,
Albuquerque Area Office
555 Broadway NE, Suite 100
Albuquerque, New Mexico 87102-2352

Dear Mr. Garner:

Your final Department of the Army Permit No. 2004 00321, for your Low Flow Conveyance Channel (LFCC) realignment project (San Acacia River Miles 114 and 113 Priority Sites Project), located in the LFCC and San Lorenzo Arroyo near San Acacia, Socorro County, New Mexico, is enclosed. Please notify us when you propose to start construction.

I draw your attention to the general conditions of this permit, which specifically address requests for extension, modification and revocation, authorized maintenance, abandonment, permit transfer, and archeological discoveries. Also, the permit contains disclaimers regarding the need for other permits, property rights and limits of the Government's liability for this work. Please also note the special conditions.

Enclosed is a self-certification letter. Upon completion of the project, please sign and date the letter and return it to this office. Also, to help us improve our service, please complete and return the attached Customer Service Survey at your convenience.

If you have any questions regarding Permit No. 200400321, please contact Mr. James Wood at (505) 342-3280 or by e-mail at james.a.wood@usace.army.mil.

Sincerely,

Daniel Malanchuk
Chief, Regulatory Branch

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3 Enclosures

1. Permit No. 2004 00321
2. Self-certification letter
3. Customer Service Survey

Copies Furnished:

Ms. Nancy Umbreit
Bureau of Reclamation,
Albuquerque Area Office
555 Broadway NE, Suite 100
Albuquerque, NM 87102-2352

Mr. David Menzie
NMED-Surface Water
Quality Bureau
910 E. 32nd Street
Silver City, NM 88061

DEPARTMENT OF THE ARMY PERMIT

Permittee Bureau of Reclamation, Albuquerque Area Office

Permit No. 2004 00321

Issuing Office Albuquerque District Corps of Engineers

NOTE: The term "you" and its derivatives, as used in this permit, means the permittee or any future transferee. The term "this office" refers to the appropriate district or division office of the Corps of Engineers having jurisdiction over the permitted activity or the appropriate official of that office acting under the authority of the commanding officer.

You are authorized to perform work in accordance with the terms and conditions specified below.

Project Description: The project will involve the realignment of approximately 9,646 feet of the low flow conveyance channel (LFCC) to the west. A new LFCC channel will be constructed approximately 1,500 feet to the west of the existing alignment. This new channel will be approximately 10,800 feet in length, 90 feet to 105 feet wide at the top, and have a bottom width of 24 feet. A levee will be constructed along the east side of the new LFCC alignment.

The project will be done in two phases, depending on funding. Phase One will involve the construction of a new LFCC alignment, with riprap protection on the sides of the channel to a height of six feet. This phase will also involve the placement of a single, 9-foot diameter reinforced concrete pipe (RCP) under San Lorenzo Arroyo to convey LFCC flows under the arroyo. This phase will allow conveyance of up to 500 cubic feet per second (cfs) in the LFCC and through the RCP under San Lorenzo Arroyo. Phase Two will increase the height of the riprap on the new LFCC alignment to a height of 12.5 feet and will involve the placement of two additional, 9-foot diameter RCP's under San Lorenzo Arroyo. The additional riprap and RCP's will increase the flow conveyance in the LFCC channel and under San Lorenzo Arroyo to 2000 cfs.

Once the new channel has been constructed under Phase One, the existing LFCC channel will be filled, using material from the levee along the existing LFCC (approximately 356,000 cubic yards (cys)). Work will also be performed within the San Lorenzo Arroyo. Flows from this arroyo presently flow into the LFCC through a culvert. A sheet pile drop structure and up to three 9-foot diameter, reinforced concrete pipes (RCP's) (providing 2000 cfs capacity flow for the LFCC under San Lorenzo Arroyo, as stated above) will be constructed in San Lorenzo Arroyo. The sheet pile drop structure will protect the LFCC from a possible head cut starting at the Rio Grande and traveling up San Lorenzo Arroyo (since the arroyo will be re-connected to the Rio Grande floodplain). The first four rows of sheet pile will be perpendicular to the arroyo channel and start at the mouth of San Lorenzo Arroyo. The fifth and sixth rows will start at the first sheet pile row approximately 50 feet from each end and travel downward at 19° from the first sheet pile row

and travel to the fourth sheet pile row. The sheet pile will have a concrete sill cap. Temporary berms will be built in San Lorenzo Arroyo (using approximately 46,000 cys of fill) to redirect any flows coming down San Lorenzo during construction. Additional work will include the construction of temporary road crossings of the existing and new LFCC during construction; a spoil levee (with access ramps) along the east side of the new LFCC alignment (16-feet high, with 2H:1V side slopes on the west and 3H:1V side slopes on the east); construction of operation and maintenance (O&M) access roads; a low water O&M crossing of San Lorenzo Arroyo (24-feet wide with 10H:1V side slopes, consisting of compacted road base material); and the extension of the existing pipe carrying the Lemitar Riverside Drain under San Lorenzo Arroyo by 80 feet.

A dewatering operation will be necessary to remove local groundwater for the construction of the RCP crossings, including the inlet and outlet concrete transitions. Collected groundwater will be discharged into the Lemitar Riverside Drain, the LFCC, or a constructed holding pond. If a holding pond is constructed, the pond will be a maximum size of one acre, with a depth of five feet, and the ponded water will be used for construction activities. During the extension of the Lemitar Riverside Drain pipe, earth fill will be placed over the existing pipe to construct a temporary channel. Temporary containment berms will be constructed to redirect any San Lorenzo Arroyo flows away from the construction areas. Also, a silt fence will be installed in front of the existing outlet of the San Lorenzo Arroyo into the existing LFCC until this channel is backfilled.

The project will involve the use of up to 1,042,050 cys of permanent fill (earth fill and riprap) and will permanently affect 9.0 acres of waters of the U.S. (8.0 acres of the existing LFCC and 1.0 acre in San Lorenzo Arroyo). The project will be constructed in accordance with the attached drawings, entitled, "Low Flow Conveyance Channel Realignment near San Acacia, Socorro County, NM, Appl. by Bureau of Reclamation, Appl. No. 2004 00321, sheets 1 through 9, dated December 2004".

Project Location: The proposed project is located within the LFCC and San Lorenzo arroyo, on the west side of the Rio Grande, south of San Acacia, Socorro County, New Mexico. The project is located within the W1/2 of the W1/2 of Section 19 and a portion of the NW1/4 of the NW1/4 of Section 30, Township 1 South, Range 1 East; and a portion of the E1/2 of the E1/2 of Section 24 and the NE1/4 of the NE1/4 of Section 25, Township 1 South, Range 1 West (34° 13.983' N Latitude, 106° 53.966' W Longitude).

Permit Conditions:

General Conditions:

1. The time limit for completing the work authorized ends on December 31, 2012. If you find that you need more time to complete the authorized activity, submit your request for a time extension to this office for consideration at least one month before the above date is reached.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Special Conditions:

After a detailed and careful review of all of the conditions contained in this permit, the permittee acknowledges that, although said conditions were required by the Corps of Engineers, nonetheless the permittee agreed to those conditions voluntarily to facilitate issuance of the permit; the permittee will comply fully with all the terms of all the permit conditions.

1. Temporary staging areas and other areas disturbed during construction should be reclaimed with native vegetation.
2. Construction activities in the Rio Grande bosque should be avoided during the migratory bird nesting season of March through August. Areas proposed for construction during the nesting season should be surveyed and, when occupied nests are found, the nesting areas should be avoided until nesting is complete.
3. Silt curtains, cofferdams, dikes, straw bales or other suitable erosion control measures should be used to minimize sedimentation in the project area.
4. Poured concrete should be contained in forms and/or behind cofferdams to prevent discharge into waterways. Wastewater from concrete batching, vehicle wash-down, and aggregate processing should be contained and treated or removed for off-site disposal.
5. Existing maintenance yards should be used to store and service construction equipment. Construction equipment should be cleaned and inspected daily prior to construction to ensure that no leaks or discharges of lubricants, hydraulic fluids or fuels occur in the aquatic or riparian ecosystem. Fuels, lubricants, hydraulic fluids, and other

petrochemicals should be stored and dispensed outside of the floodplain. Any petrochemical spills, including contaminated soil, should be contained, removed, and disposed at an approved upland site.

Further Information:

1. Congressional Authorities: You have been authorized to undertake the activity described above pursuant to:

() Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403).

(x) Section 404 of the Clean Water Act (33 U.S.C. 1344).

() Section 103 of the Marine Protection, Research and Sanctuaries Act of 1972 (33 U.S.C. 1413).

2. Limits of this authorization.

- a. This permit does not obviate the need to obtain other Federal, state, or local authorizations required by law.
- b. This permit does not grant any property rights or exclusive privileges.
- c. This permit does not authorize any injury to the property or rights of others.
- d. This permit does not authorize interference with any existing or proposed Federal project.

3. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
- b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
- c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
- d. Design or construction deficiencies associated with the permitted work.
- e. Damage claims associated with any future modification, suspension, or revocation of this permit.

4. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.

5. Reevaluation of Permit Decision. This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:

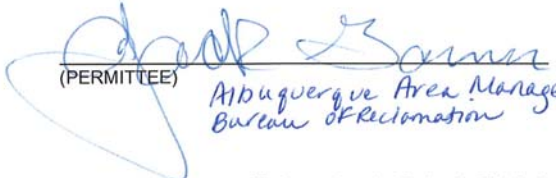
- a. You fail to comply with the terms and conditions of this permit.
- b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (See 4 above).
- c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.

Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The

referenced enforcement procedures provide for the issuance of an administrative order requiring you to comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CFR 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.

6. Extensions. General condition 1 establishes a time limit for the completion of the activity authorized by this permit. Unless there are circumstances requiring either a prompt completion of the authorized activity or a reevaluation of the public interest decision, the Corps will normally give favorable consideration to a request for an extension of this time limit.

Your signature below, as permittee, indicates that you accept and agree to comply with the terms and conditions of this permit.


(PERMITTEE)
Albuquerque Area Manager
Bureau of Reclamation


(DATE)

This permit becomes effective when the Federal official, designated to act for the Secretary of the Army, has signed below.


Daniel Malanchuk
Chief, Regulatory Branch
(for the DISTRICT ENGINEER)


(DATE)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date below.

(TRANSFERREE)

(DATE)



BILL RICHARDSON
GOVERNOR

**State of New Mexico
ENVIRONMENT DEPARTMENT**

Office of the Secretary
Harold Runnels Building
1190 St. Francis Drive, P.O. Box 26110
Santa Fe, New Mexico 87502-6110
Telephone (505) 827-2855
Fax (505) 827-2836



RECEIVED RON CURRY
ALBUQUERQUE AREA OFFICE
OFFICIAL FILE COPY
DERRITH WATCHMAN MOORE
DEC 23 2004
SECRETARY

December 21, 2004

A. Jack Garner, Area Manager
U. S. Bureau of Reclamation, Albuquerque Area Office
555 Broadway Blvd., NE Suite 100
Albuquerque, New Mexico 87102-2352

Class	ENV-9.000	Action
Proj	GF	
Contract #	4003059	
Fid #	39007	
Date	12/27	
12/27	166	
	105	
	107	
	150	

Subject: Clean Water Act Section 401 Water Quality Certification for **SWQB File 2004-SC023**:
San Acacia River Miles 114 and 113 Priority Sites Project

01/10/05 CAW-185

Dear Mr. Garner:

The Surface Water Quality Bureau (SWQB) of the New Mexico Environment Department has reviewed your application for authorization of the project indicated above under Sections 404 and 401 of the federal Clean Water Act. The project plan requires realignment of an existing levee, the realignment of the Low Flow Conveyance Channel (LFCC), and the construction of a new levee between the San Acacia Diversion Dam and Escondida Bridge in Socorro County, New Mexico. The proposed new levee and LFCC alignment would be approximately 10,800 feet in length.

The U.S. Army Corps of Engineers (USACE) will regulate this project under Individual Permit (USACE Action #2004-00321). In addition, a State Water Quality Certification is required by Section 401 of the Federal Clean Water Act in order to ensure that your project will comply with the state water quality standards (*Standards for Interstate & Intrastate Surface Waters*, New Mexico Water Quality Control Commission, 20.6.4 NMAC: 10/11/2002). According to these standards, the Rio Grande in the project area is designated for the following uses:

- Irrigation
- Limited Warmwater Fishery
- Livestock Watering
- Secondary Contact
- Wildlife Habitat

The standards for the Rio Grande that are relevant to your project include the following:

1. Turbidity attributable to other than natural causes shall not reduce light transmission to the point that the normal growth, function, or reproduction of aquatic life is impaired or that will cause substantial visible contrast with the natural appearance of the water.
2. pH shall be within the range of 6.6 to 9.0
3. Temperature shall not exceed 32.2°C (90°F)
4. Toxic Pollutants: Surface waters of the state shall be free of toxic pollutants attributable to discharges in amounts, concentrations or combinations which affect the propagation of fish or which are toxic to fish or other aquatic organisms; wildlife using aquatic environments for habitat or aquatic organisms for food; or to livestock or other animals.

This is only a partial list of standards for your project area. For a complete list of the water quality standards that apply to your project, refer to the following sections of the *Standards for Interstate & Intrastate Surface Waters*, New Mexico Water Quality Control Commission, 20.6.4 NMAC: 10/11/2002.

- 20.6.4.8 Antidegradation Policy and Implementation Plan
- 20.6.4.12 General Standards
- 20.6.4.900 Standards Applicable to Attainable or Designated Uses
- 20.6.4.105 Rio Grande Basin - The main stem of the Rio Grande from the headwaters of Elephant Butte Reservoir upstream to Alameda bridge

These standards are available on the web at:

www.nmenv.state.nm.us/NMED_regs/swqb/20_6_4_nmac.html

401 Water Quality Certification with Conditions:

Pursuant to Section 401 of the Clean Water Act and 40 Code of Federal Regulations Part 121, the SWQB hereby issues a 401 Water Quality Certification for USACE Action #2004-00321: San Acacia River Miles 114 and 113 Priority Sites Project. This certification is subject to conditions to ensure that the project will comply with state water quality standards and the Antidegradation Policy.

Therefore, this Certification is not valid unless the following conditions are adhered to:

Flow Conditions:

1. Any work in a channel below the ordinary high water mark must be limited to low flow periods. Avoid working in these channels during the spring runoff and summer monsoon season.
2. When working in a stream channel, flowing water must be temporarily diverted around the work area to minimize sedimentation and turbidity problems. Acceptable diversion structures are non-erosive and include water bladders, concrete barriers lined with plastic, and flumes.

Wetlands:

3. Impacts to wetlands must be mitigated by increasing wetland habitat on an area as large as the area impacted. Wetland mitigation areas shall be planted with native wetland species and these areas shall be monitored and maintained through at least one growing season to ensure successful establishment of wetland habitat.

Erosion Control:

4. Prior to beginning construction, erosion control measures such as silt fences and straw bales must be installed to prevent the movement of disturbed soil or other contaminants into surface water. The erosion control measures must be inspected and maintained on a regular basis to ensure they are working properly. These erosion control measures must be maintained until the disturbed areas are permanently vegetated.
5. Temporary protective mats are required for heavy equipment working in wetlands, to minimize impacts to soil and vegetation. Protective mats are also recommended for use on stream banks and riparian areas.
6. Temporary access roads must be restored to pre-project conditions.
7. All areas that are disturbed as a result of the project must be replanted with native vegetation and protected until the area is no longer subject to erosion into surface water. The native plant species must be appropriate for the moisture conditions of the affected area, whether it be wetland, riparian, or upland.

Construction Materials:

8. All asphalt, concrete, and other construction materials must be properly handled and contained to prevent releases to the stream channels. Dumping of materials in the vicinity of watercourses is strictly prohibited.

Use of Heavy Equipment:

9. Heavy equipment will be operated from the bank and not enter the stream.
10. All heavy equipment used in the project area must be cleaned before the start of the project and inspected daily for leaks. Equipment must be steam cleaned before working in the water. Leaking equipment must not be used in or near any watercourse. Park equipment outside of channel when not in use.
11. Spill clean-up materials such as booms and absorbent pads must be available on-site at all times during construction. Report all spills immediately to the SWQB as required by the New Mexico Water Quality Control Commission regulations (20.6.2.1203 NMAC).
12. Fuel, oil, hydraulic fluid, or substances of this nature must not be stored within the normal floodplain, and must have secondary containment systems to prevent spills if the primary storage container leaks. Refuel equipment at least 100 feet from surface water.

General Conditions:

13. A copy of this 401 certification must be kept at the project site during all phases of construction. All contractors involved in your project must be provided a copy of this certification and made aware of the conditions prior to starting construction.
14. The SWQB must be notified at least five days before starting construction, to allow time to schedule monitoring or inspections.

Violations of State water quality standards could lead to penalties under the New Mexico Water Quality Act. Section 74-6-10.1 B of the Act states, "Any person who violates any provision of the New Mexico Water Quality Act other than Section 74-6-5 NMSA 1978 or any person who violates any regulation, water quality standard, or compliance order adopted pursuant to that act shall be assessed civil penalties up to the amount of ten thousand dollars (\$10,000) per day for each violation."

The SWQB specifically reserves the right to amend or revoke this 401 Certification at any time to ensure compliance with water quality standards. If you have any questions regarding this 401 Water Quality Certification please feel free to contact David Menzie of my staff at (505) 388-0599. Thank you for your cooperation.

Sincerely,



Marcy Leavitt, Chief
Surface Water Quality Bureau

ML: dm

cc: NMED District I Manager, Albuquerque
Dan Malanchuk, U.S. Army Corps of Engineers
Jim Herrington, Wetlands, Region 6, USEPA
Lisa Kirkpatrick, NM Department of Game and Fish
Joy Nicholopoulos, U.S. Fish and Wildlife Service
Mike Matush, NMED Surface Water Quality Bureau, Silver City
401 Certification File #2004-SC023



United States Department of the Interior

BUREAU OF RECLAMATION

Albuquerque Area Office
555 Broadway Blvd., NE Suite 100
Albuquerque, New Mexico 87102-2352

IN REPLY REFER TO:

ALB-189
ENV-3.00

FEB 03 2005

073469



Lisa Meyer
New Mexico State Historic Preservation Office
New Mexico Historic Preservation Department
228 E. Palace Ave
Santa Fe, NM 87501

Subject: River Mile 114 To 113 Priority Site "Levee Setback" Project

Dear Ms. Meyer:

The Bureau of Reclamation, Albuquerque Office, proposes to re-align a segment of the Low Flow Conveyance Channel (LFCC), which extends from the San Acacia Diversion Dam to just below Fort Craig. One segment, approximately 10,000 feet, extends from River Mile 114 to River Mile 113 (see map and photos). Levee roads will be removed and the LFCC filled. This project has been proposed because the river is beginning to threaten the integrity of the east-side levee road of the LFCC. The proposed project would accommodate the natural tendency of the river and involve the construction of a new segment of the LFCC to the west of the existing one along with the construction of new levee roads. The abandoned section of the LFCC would be filled in and the associated levees would be graded. Existing riprap along the abandoned section of the LFCC will be reclaimed and used on the new section.

The only known historic property within the project footprint is the LFCC.

In February of 2003, SHPO concurred with a mitigation report submitted by Statistical Research Inc, entitled *Reclamation and Water Conveyance in the Middle Rio Grande Valley, 1888-1998*, by Matt C. Bischoff. This report was to cover any adverse effects on future modifications of the LFCC. Please find enclosed a copy of this report.

Please feel free to contact Reclamation archaeologist Jeffery Hanson at 505-462-3607 if you have any questions or comments.

Sincerely,

COMMENTS

No Survey Required, you
for NM State Historic Preservation Officer

A. Jack Garner
A. Jack Garner
Area Manager

Enclosures

may want to consider
removal of monitoring road
L. Meyer
2/16/05



Ms. Nancy Umbreit, Biologist
U.S. Bureau of Reclamation
Albuquerque Area Office
555 Broadway NE, Suite 100
Albuquerque, NM 87102

February 2, 2005

RE: Comments on the U.S. Bureau of Reclamation's Draft Environmental Assessment for San Acacia Priority Sites, river miles 114 and 113, Socorro County, New Mexico.

Dear Ms. Umbreit:

Thank you for the opportunity to comment on the Draft Environmental Assessment (EA). The Middle Rio Grande Conservancy District was not listed in the Coordination and Consultation Section of this EA but has lands and facilities that are clearly affected by this project. The EA does not provide an analysis on how the project may effect the District's right-of-ways, ability to maintain its facilities, irrigation water delivery or newly planted vegetation. Additionally, several figures and sections are missing from the copy of the EA provided to the District, which makes it difficult to determine all the potential issues or conflicts with the proposed action. Given these factors, the District provides the following specific comments:

1. Construction activities affecting District lands and facilities require coordination with, and a license from, the District prior to commencing work.
2. Please provide a more detailed map of the Bureau's easement for the LFCC so that the District can examine the proposed realignment in relation to the District's existing right-of-ways.
3. A proposed construction schedule was not provided. This is imperative so that affected parties such as the District can identify potential conflicts and coordinate management activities with construction.
4. Any revegetation plan must be coordinated with the MRGCD and Save our Bosque Task Force. Some of the water tables in the current Rio Grande floodway within the project area may not support the types of pole plantings proposed as mitigation. Revegetation should not occur south of river mile 113 to avoid conflicts with the Goat Vegetation Management Study, led by the MRGCD and the Jornada del Muerto Experimental Range.

P.O. Box 581

87103-0581

1931 Second St. SW

Albuquerque, NM

87102-4515

505-247-0234

Fax # 505-243-7308

We look forward to receiving a final EA and coordinating with the Bureau on this project. If you have any questions, please contact me at (505) 247-0234.

Sincerely,

Subhas K. Shah
Chief Engineer and Chief Executive Officer

ALB-185
ENV-1.10

FEB 1 8 2005

Mr. Subhas K. Shah
Chief Engineer and Chief Executive Officer
Middle Rio Grande Conservancy District
P.O. Box 581
Albuquerque, NM 87103-0581

Subject: Your Letter Dated February 2, 2005 Regarding Comments on the Draft
Environmental Assessment (DEA) for the San Acacia Priority River Miles 114
and 113 Priority Sites Project (Project)

Dear Mr. Shah:

Thank you for your comments regarding our subject draft document. As a follow up to your letter, we have provided additional information and comments below.

The lands encumbered by the proposed Project are on properties assigned by the Middle Rio Grande Conservancy District (District) to the United States under the terms of the 1951 Contract between the parties. Assignment of the Receipt and Conveyance numbers relevant to the proposed Project are the following: 1353, 1352, 1354, 1367, 1366, 1504, 1330, 1350, 1233, 1503, and 1595.

Copies of the construction schedule and Scope of Work were provided to you during a meeting with Mr. Karl Martin and Mr. Frank Montoya, of my engineering staff, on October 26, 2004. We have enclosed copies of previous letters sent to your organization related to this project as well as handouts provided during meetings (construction schedule, Scope of Work, notification letters, etc.) for your convenience.

In an effort to further coordinate our construction activities with your operation and maintenance work, we refer you to our letter dated December 21, 2004. In the letter, we outlined the proposed Low Flow Conveyance Channel (LFCC) realignment from Station 1865+85 to Station 1959+39. The letter also discussed the construction of a single barrel 9-foot diameter reinforced concrete pipe along the LFCC under the San Lorenzo Arroyo. Flows in the San Lorenzo Arroyo could then be conveyed above the pipe and eventually into the Rio Grande. The letter further described the modification of the 48-inch diameter corrugated metal pipe for Lemitar Drain underneath San Lorenzo Arroyo. The modification would facilitate diversion and care of arroyo flows during construction of the crossing structure. The Bureau of Reclamation drawing numbers 163-518-6700 and 163-518-6711 were enclosed with the letter showing the Lemitar Drain pipe extension along with a plan and profile of the proposed work.

A

A meeting, held on January 13, 2005, focused on the proposed modification to the Lemitar Drain culvert crossing at San Lorenzo Arroyo. Reclamation staff, along with the District's Socorro Division manager, Mr. Johnny Mounyo, and his staff were present at the meeting. It was agreed that Reclamation could proceed with the modifications and that Reclamation would keep the District informed of any problems that might arise as work progressed. Mr. Mounyo expressed concern about the contractor potentially impeding the District's work within the area. Reclamation explained that it did not believe the Lemitar Drain extension work would impact the District's work; Reclamation's work activities would occur approximately 200 feet away from the District's work areas.

Lastly, the proposed revegetation efforts are detailed within the DEA and were made available to all parties, including the Save Our Bosque Task Force, during the public review period. The areas being proposed for pole planting are located where we believe the poles would have the best chance for long term success. No revegetation efforts, associated with this project, would occur south of river mile 113.

We might also mention that, through the National Environment Policy Act (NEPA) process pertaining to the project, a total of four public scoping meetings (April 8 and April 13, 2003; May 21 and June 1, 2004) in the San Acacia area were held to solicit public comments and concerns and identify issues that would need to be addressed within the Environmental Assessment (EA). Ms. Yasmeen Najmi, of your office, attended the May 13, 2003 and June 1, 2004 presentations. Obviously, this office has coordinated numerous times with the District and we will make sure the District is listed within the 'Coordination and Consultation' section of the EA. Ms. Najmi was notified of the DEA availability, and a CD containing the entire document, was made available to your organization. We are uncertain why you did not have a complete document to review as stated within your letter's first paragraph.

Reclamation will continue to coordinate project activities with the District as it relates to the District's operation and maintenance work. If you should have additional questions pertaining to this work, do not hesitate to contact me.

Sincerely,

A. JACK GARNER

A. Jack Garner
Area Manager

Enclosures

bc: ALB-150, ALB-180, ALB-200, ALB-210, ALB-211, ALB-240, ALB-420
S-10 (w/o enclosures)

WBR:NUMbreit:JKuhn:5054623599:021405
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